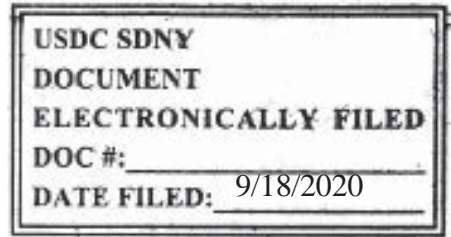


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



United States,

—v—

Michael Stewart.

Defendant.

12-cr-824 (AJN)
16-cv-5111 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On June 4, 2013, the Defendant was convicted of possession of firearms during a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(i). Dkt. No. 18. On June 21, 2016, the Defendant filed a *pro se* petition for habeas corpus under 28 U.S.C. § 2255. Dkt. No. 35. Over the next years, the Court’s proceedings as to this petition were stayed, at the parties’ request, pending various decisions by the Supreme Court and the Second Circuit.

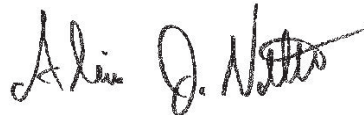
On September 22, 2019, the Government filed a letter indicating that the Defendant’s “conviction [of violating 18 U.S.C. § 924(c)] can no longer stand after *Davis*, because the Hobbs Act robbery conspiracy offense qualifies as a ‘crime of violence’ under 18 U.S.C. § 924(c)(3) only under the ‘residual’ or ‘risk-of-force’ clause of that statute, which has now been declared unconstitutionally vague.” Dkt. No. 57. The Government thus “consent[ed] to vacatur” of the Defendant’s conviction on this count. *Id.*

The Court hereby VACATES the Defendant’s conviction of 18 U.S.C. § 924(c). *See United States v. Davis*, 139 S. Ct. 2319 (2019). The petition for a writ of habeas corpus is thus granted, and the Clerk of Court is respectfully directed to enter judgment and close the civil docket, 16-cv-5111.

The parties are directed to meet and confer and submit a joint status letter no later than September 25, 2020, advising the Court whether there are any issues remaining in this case that require the Court's resolution.

SO ORDERED.

Dated: September 17, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", written over a horizontal line.

ALISON J. NATHAN
United States District Judge